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Governor

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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

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November 16, 2009

CERTIFIED RETURN RECEIPT  
7003 2260 0002 0247 8744

Vern Tharp  
Moss Rock Products, LLC  
5040 Acorna Street  
Denver, Colorado 80216

Subject: Final Assessment for Cessation Order MC07-01-15, Moss Rock Products, LLC, Klingon Rock Operations, S/049/060, Utah County, Utah

Dear Mr. Tharp:

This letter is to inform Moss Rock Products that:

1. It has not yet paid the civil penalty assessed against it for cessation order MC07-01-15 dated November 1, 2007, and that this fine is due; and,
2. That the Division is withdrawing the Notice of Intention to Commence Small Mining Operations for the Klingon mine subject to appeal to the Board of Oil, Gas and Mining.

### Civil Penalty

On June 13, 2008, the Division notified you by certified mail of the civil penalty associated with cessation order MC07-01-15. The Utah Division of Oil, Gas, and Mining requires payment of the final fine of \$1430.00. Please send a check payable to Utah Division of Oil, Gas, and Mining at the following address:

Utah Division of Oil, Gas, and Mining  
Attn: Minerals Program  
P.O. Box 145801  
Salt Lake City, UT 84114-5801

The Division received a faxed letter from you on July 21, 2008, requesting a hearing to contest the fact of violation and/or the civil penalty. I apologize that the Division apparently did not respond to your request, but the request was not timely. An assessment was sent to you on January 10, 2008, and our records indicate you received this assessment January 12, 2008. The letter associated with this assessment said you could appeal the fact of the cessation order or the civil penalty by filing a written appeal within 30 days of receipt (February 11, 2008). Because no appeal was received, the Division finalized the assessment, and our records show you received this finalized assessment on June 18, 2008.



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Utah Code Ann. Section 40-8-9.1 allows the Division to refer unpaid fines to the Utah Attorney General's Office for collection in district court. If Moss Rock Products fails to pay its fine or make arrangements with the Division to do so by December 14, 2009, the Division will refer this matter to the Attorney General's Office for collection proceedings, which may result additional fees and penalties including a requirement that you pay attorneys' fees.

#### **Withdrawal of the Notice of Intention**

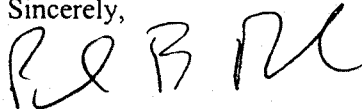
The Division withdraws acceptance of the Notice of Intention to Commence Small Mining Operations (NOI) for the Klingon mine for failure to pay permit fees in 2008 and 2009 (R647-3-102) and for failing to modify the NOI as required in our letter dated June 6, 2008. This letter required that you correct the right of entry information for the mineral estate and that you cease all mining operations, including removal of stockpiled materials. You may appeal the decision to withdraw acceptance of your NOI to the Board of Oil, Gas and Mining. If you desire to do so, you must file the appeal no later than December 14, 2009. Please contact the Division for information about filing the appeal.

**The Division requires immediate reclamation of the site.** Reclamation must be completed no later than December 14, 2009. If you fail to complete reclamation by this date, the Division will seek forfeiture of the reclamation surety. The Division will also request an order from the Board of Oil, Gas and Mining for the Division to conduct reclamation. With approval from the Board, the Division will bring a civil action to recover the costs and expenses of reclamation, together with the costs of collection, including attorneys' fees. These costs are likely to exceed the amount in the reclamation surety.

We understand the property on which the mine is located has been sold to another entity, but this does not negate your responsibilities to complete reclamation.

The Division hopes to avoid taking these actions before the Board but will do so if necessary. If you have any questions, please contact me at 801-538-5261. Thank you in advance for your cooperation.

Sincerely,



Paul B. Baker  
Minerals Program Manager

PBB:pb

cc: Fred Donaldson  
Steve Alder  
Lynn Kunzler  
Dana Dean

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